



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

NJM:JRS
F. #2018R01858

271 Cadman Plaza East
Brooklyn, New York 11201

February 28, 2024

By ECF

The Honorable Kiyo A. Matsumoto
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Tyshawn Corbett
Criminal Docket No. 20-213 (KAM)

Dear Judge Matsumoto:

The government respectfully submits this letter to request that the Court, pursuant to Fed. R. Crim. P. 36, correct a clerical error in the Statement of Reasons. The Court maintains jurisdiction to make such corrections despite the defendant having filed a notice of appeal. See United States v. Katsougrakis, 715 F.2d 769, 777 & n.7 (2d Cir. 1983) (notice of appeal does not divest district court of jurisdiction to “correct[] clerical errors under Fed. R. Crim. P. 36”); accord United States v. Jacques, 6 F.4th 337, 343 (2d Cir. 2021).

At sentencing, the Court correctly calculated the defendant’s United States Sentencing Guidelines (“U.S.S.G.” or the “Guidelines”) range as 30 years. See Jan. 22, 2024 Tr. 52:10-53:12; 56:8-10. The Statement of Reasons, however, incorrectly states that the Guidelines range was 30 years to life and incorrectly states that the 45-year sentence imposed was a within Guidelines sentence. See Statement of Reasons §§ III, IV(B). Because the Statement of Reasons states that the sentence was within the Guidelines range, the Statement of Reasons also does not include the reasons for a variance, as required in Section VI.

The government therefore respectfully requests that the Court correct the clerical errors in the Statement of Reasons (1) to correctly state in Section III that the Guidelines range was 30 years, as the Court stated at sentencing; (2) to correctly state in Section IV that the Court imposed a variance; and (3) to provide the bases for the variance in Section VI. Correcting those errors now may allow the Court to avoid an unnecessary remand in the future. See United States v. Stuckey, 317 F. App’x 48, 51 (2d Cir. 2009) (remanding to district court to fill out Statement

of Reasons form even where the district court orally provided an “adequate explanation” for its sentence).

The government has conferred with Dan Nooter, Esq., appellate counsel for the defendant, who consents to this request.

Respectfully submitted,

BREON PEACE
United States Attorney

By: /s/
Jonathan Siegel
Assistant U.S. Attorney
718-254-6293

cc: Clerk of the Court (KAM) (by ECF)
Dan Nooter, Esq. (by email)